

VERNER SIMON

30 WALL STREET, 8TH FLOOR ▪ NEW YORK, NEW YORK 10005 ▪ (212) 502 5500 / (856) 267-1953 FAX

pwverner@vernerlaw.com

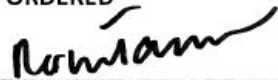
VIA ECF

The Honorable Robyn F. Tarnofsky
United States Magistrate Judge
United States District Court
500 Pearl Street
New York, New York 10007

Application granted. The motion for leave to amend is due by January 30, 2025. Any oppositions to that motion are due by February 13, 2025. Plaintiffs' reply in further support of the motion is due by February 21, 2025. The Clerk of Court is respectfully requested to terminate ECF 168.

Date: 1/27/2025
New York, NY

SO ORDERED


ROBYN F. TARNOFSKY
UNITED STATES MAGISTRATE JUDGE

Re: Harmon v. Mosley, et al.
Case No. 1:23-cv-04225

Dear Judge Tarnofsky:

This letter serves as Plaintiffs' reply to Defendants' January 24th letter (ECF#167) regarding expert depositions. Additionally, it seeks to enlarge the briefing schedule for Plaintiffs' Motion to For Leave to Amend the Complaint which Plaintiffs addressed at the discovery conference on Friday. I address these purposes in reverse Order.

On Friday evening close to 11:25 p.m. ET, Defendants served their expert Notice and Report of John Edwin Kelly, etc. although Plaintiffs had requested it be delivered before close of business.

On Saturday morning, Defendants' counsel initiated telephone discussions about resolving the litigation based upon their expert's report. Discussions by email followed concerning the Plaintiffs' intended Motion and the deposition of Mr. Mosley also set for tomorrow, Monday. The parties could not agree on a settlement over the weekend and the timing of the Motion and Mosley deposition were not altered by agreement on Saturday.

By Sunday, Plaintiffs' counsel were able to confer more fully with their client. Although I was the attorney who suggested at the Friday discovery conference that the Plaintiffs' Motion could be filed by Monday evening, it has proven unworkable to have multiple discussions about settlement with opposing counsel and the clients/co-counsel over the weekend and to also prepare both a motion and a major party deposition. The discussions concerning resolution were initiated by Defendants, foreseeably consumed a significant amount of our time over the weekend, and now Plaintiffs Motion will require another 72 hours to file in good Order. Accordingly, Plaintiffs seek the Court's leave and request an adjustment of the briefing schedule for all parties by three days to accommodate all the parties' briefs.¹ However, Plaintiffs intend to proceed forward with the deposition of Mr. Mosley on Monday, January 27th.

¹ 1/30/2025 Brief, 2/13/2025 Responses and 2/21/2025 Replies.

VERNER SIMON

Hon. Robyn F. Tarnofsky

January 26, 2025

Page 2

Plaintiffs note that the request for the enlargement of briefing will not change the Defendants' position in the action in any manner. Further, the Motion will still be pending before the parties appear for the Settlement Conference on February 7th. Finally, by focusing on the Mosley deposition and spending the next 72 hours continuing the dialogue initiated by Defendants' counsel on Saturday, perhaps the parties have a better chance of resolving the case with finality.

The Mosley Defendants were asked to consent to the enlargement of the briefing schedule (among other things) and characteristically refused. We did not yet hear back from counsel for Hipgnosis.

In response to Mr. Davis's letter concerning expert deposition dates and methods, we advise the Court and him that we will agree to take the deposition of their Defendants' expert, Mr. Kelly on February 5th, with Plaintiffs' expert, Mr. Moughan on February 6th (on UK time) and Plaintiffs consent to take all experts' depositions by remote means.

Thank you for your consideration.

Respectfully submitted,

VERNER SIMON

s/ Paul W. Verner
Paul W. Verner